

REMARKS

The Examiner's Office Action mailed on March 28, 2008, has been received and its contents carefully considered. Additionally attached to this Amendment is a petition for an Extension of Time, extending the period for response to July 28, 2008. Also attached hereto is a statement of Joint Research Agreement, and the processing fee set forth in 37 CFR 1.17(i).

In this amendment, the specification and the claims have been amended. The specification has been amended pursuant to 35 U.S.C. 103(c)(2)(c) and 37 CFR 1.71. Claim 1 is the independent claim. Claims 1 - 9 remain pending. For at least the following reasons, it is submitted that this application is in condition for allowance.

In the Office Action, claims 1 - 9 have been rejected under 35 U.S.C. 112 as being indefinite. In response, claims 1 - 9 have been amended to correct the matters noted in the Office Action, as well as other informalities noted in the review. It is thus requested that the rejection be withdrawn.

In the Office Action, claims 1 – 5, 8, and 9 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Joushita (USP 7,228,933). In response, it is submitted that the cited reference should be disqualified as prior art pursuant to 35 U.S.C. 103(c) because (1) the cited reference only qualifies as prior art under one of subsections (e), (f) and (g) of 35 U.S.C 102, and (2) the subject matter of the cited reference and the claimed invention were owned by the same person or subject to an obligation of assignment to the same person within the meaning of 35 U.S.C. 103(c)(2). See the attached STATEMENT OF JOINT RESEARCH AGREEMENT. Therefore, the rejection of claim 1 – 5, 8, and 9 based on Joushita is rendered moot and these claims should be allowed.

In the Office Action, claims 6 and 7 have rejected under 35 U.S.C. 103(a) as being unpatentable over Joushita as applied to claims 1 - 5, 8, and 9, and further in view of Byrom (USP 2,135,634). In response, it is submitted that because, as discussed above, Joushita should be disqualified as prior art pursuant to 35 U.S.C. 103(c), the rejection of claims 6 and 7 is rendered moot and claims 6 and 7 should be allowed.

Accordingly, it is submitted that the application is in condition for allowance and such a Notice, with allowed claims 1 - 9, earnestly is solicited.

Should the Examiner feel that a conference would help to expedite the prosecution of this application, the Examiner is hereby invited to contact the undersigned counsel to arrange for such an interview.

A processing fee of \$130 and an extension fee of \$120 are concurrently filed. Should any additional fees be required, however, the Commissioner is hereby authorized to charge the fee to our Deposit Account No. 18-0002, and advise us accordingly.

Respectfully submitted,



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July 28, 2008
Date

RHB/BW